

OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA

JOYCE E. DUDLEY
District Attorney



J. GORDON AUCHINCLOSE

Chief Assistant District Attorney

PAUL T. GRECO

Chief Deputy District Attorney

MAG M. NICOLA

Chief Deputy District Attorney

KELLY D. SCOTT

Chief Deputy District Attorney

MEGAN RHEINSCHILD

Victim Assistance Director

DAVID M. SAUNDERS

Chief Investigator

KERRY M. BIERMAN

Chief Financial & Administrative Officer

September 4, 2015

**PUBLIC REPORT ON OFFICER-INVOLVED SHOOTING OF ELLIOT RODGER
BY SANTA BARBARA COUNTY DEPUTY SHERIFFS ON MAY 23, 2014**

The District Attorney's office has completed its review of the May 23, 2014, shooting of Elliot Rodger¹ by Santa Barbara Sheriff Sergeant Brad Welch, Detective Brian Flick, Deputy Adrian Marquez, and Deputy Jorden Walker. We have concluded that Sergeant Welch, Detective Flick, and Deputies Marquez and Walker acted lawfully in self-defense, in defense of others, and in an attempt to arrest a dangerous felon, and that none of their shots caused Elliot Rodger's death.

The following analysis is based upon investigative reports, analyzed evidence reports, video recordings, and witness statements taken during the investigation by the Santa Barbara Sheriff's Office ("SBSO") and submitted to this office by SBSO Detective Sergeant Kevin Huddle and Detective Joseph Schmidt.

This report focuses solely on the officer-involved shooting aspect of this event. To that end, the report analyzes the witness statements and evidence associated with the Santa Barbara Sheriff Deputies who discharged their firearms at suspect Elliot Rodger on May 23, 2014. For a comprehensive investigative summary of the Isla Vista Mass Murder please see the Santa Barbara Sheriff's Office complete report which may be found at: <http://www.sbsheriff.org/documents/ISLAVISTAINVESTIGATIVESUMMARY2.pdf>

SUMMARY

On May 23, 2014, 22-year old Elliot Rodger embarked on a premeditated murderous rampage throughout the small community of Isla Vista, California, near the campus of the University of California at Santa Barbara. This horrible tragedy began with the brutal stabbing of three people inside his apartment in Isla Vista. He then committed a series of drive-by shootings and deliberately struck people with his car as he drove through the streets of Isla Vista. He killed three more people and wounded an additional 14 victims. During this rampage he engaged in two different gun battles with Sheriff Deputies and was wounded by one of them before taking his own life.

¹ Suspect Elliot Rodger died at the scene from a self-inflicted gunshot wound to his head.

Information in this report is compiled from Sheriff's Office Investigation 14-7595

Involved Deputies' Statements

Deputy Adrian Marquez

Deputy Adrian Marquez is a 12-year veteran of law enforcement. On May 23, 2014, Deputy Marquez was working a regular shift at the Isla Vista Foot Patrol. While at the station, Deputy Marquez heard a radio call of shots fired in the area of Pardall Avenue. In response to the radio broadcast, he started walking from the station westbound towards Embarcadero del Norte where he heard gunshots just to the south coming from Sabado Tarde Road. At this time Deputy Marquez also heard more radio traffic about gunshot victims, so Deputy Marquez started running westbound towards Trigo Road while hearing continuous gunshots moving to the southwest of his location.

When Deputy Marquez reached the top of the business loop, he saw that a window had been shot out at a restaurant, Pizza My Heart. This caused him to think that the suspect must have driven by this area and shot at the window. Deputy Marquez continued running towards the sound of gunshots, asking people on the street who was shooting and where did the suspect go. Bystanders indicated to Deputy Marquez that the suspect was driving a black BMW and driving south. Deputy Marquez had his gun out while he ran. He turned south near 7-Eleven on El Embarcadero where he encountered a female on a bicycle who appeared to have been shot in the leg. This female also indicated the suspect was driving a black BMW and was last seen headed in the southern direction.

Deputy Marquez continued running south towards the area of Del Playa Drive at El Embarcadero when he heard gunshots. People on the street started pointing east in the street. Deputy Marquez then saw a black BMW without its headlights on. He saw the BMW accelerating towards him and positioned himself in between two parked cars. The BMW quickly drove towards Deputy Marquez while the driver fired numerous rounds at him. As the BMW approached Deputy Marquez, he could see the driver was an Asian male. Deputy Marquez thought the driver was shooting at him because there were no other people around him at the time. As the BMW quickly sped by westbound, Deputy Marquez fired one shot at the vehicle. He was not able to determine if he hit the suspect. The forensics investigation later determined that his round hit the right side of the suspect vehicle.

Deputy Marquez tried to broadcast on the radio his observations about the suspect as well as the shot he fired; however, there was so much radio traffic he was not sure the information was actually broadcast. He waited briefly, listening to determine if the suspect would return to his location. A short time later, Deputy Marquez heard gunshots coming from the north. He then ran in between apartment complexes in the direction of the gunshots. Deputy Marquez heard six to eight gunshots, a vehicle speed eastward, and then the sound of more gunshots. Deputy Marquez then turned towards Del Playa Drive and began running in that direction, believing that was the direction the suspect would next be coming. Before he

reached Del Playa Drive, Deputy Marquez heard a crash. When he arrived on Del Playa Drive he saw the same black BMW crashed into the back of a parked vehicle. As he approached, he saw one male outside of the vehicle bleeding heavily from the face and the driver of the BMW slumped over inside the vehicle, bleeding heavily from his head. Deputy Marquez ran to the injured person on the ground and moved him onto his side to prevent him from choking on his blood. Marquez then returned to the driver who appeared to be deceased. Deputy Marquez soon located a gun in between the center console and the driver's body which he took in order to make certain it was rendered safe. About this time other deputies arrived and began taking over the scene. Deputy Marquez then returned to the Isla Vista Foot Patrol Station where he was interviewed by detectives.

Detective Brian Flick

Detective Brian Flick was a narcotics detective at the time and had been employed with the Santa Barbara Sheriff's Office for 11 years. On May 23, 2014, Detective Flick was working an overtime shift at Isla Vista Foot Patrol. At approximately 2125 hours, Detective Flick and four other Deputies walked back towards the Foot Patrol station from Starbucks. They were walking on Embarcadero del Norte when Detective Flick heard approximately 12 loud pops which he immediately recognized as gunfire. Detective Flick and the others then started running northbound toward the sound of the gunfire and toward Cordoba and Seville Roads. When they reached the corner of Embarcadero del Norte and Cordoba Road, Detective Flick heard several more shots coming from the south. Detective Flick, Deputy Walker, and Deputy Johnson looped back around and began running towards the gunfire. As they approached the top of the business district loop they encountered Sergeant Welch and Deputy Smith who had already blocked off the intersection. Detective Flick next heard radio traffic that there was a gunshot victim on Pardall Road. At about this time he heard another volley of gunfire coming from the south. Detective Flick also heard a radio broadcast from Deputy Marquez stating he had just engaged in gunfire with the suspect who was driving a black BMW. Deputy Marquez also stated he had been fired upon by the suspect.

Detective Flick, Sergeant Welch, Deputy Walker, and Deputy Johnson continued running south through Little Acorn Park and towards the 7-Eleven on El Embarcadero and Sabado Tarde Road. At this time Detective Flick heard more gunshots coming from the west of Sabado Tarde Road. Soon he saw a dark-colored BMW exiting the parking lot of a liquor store. Detective Flick then noticed the front windshield of the BMW was completely gone and the vehicle appeared to have sustained significant damage. The BMW was completely blacked out and the headlights were not illuminated. Detective Flick and the others took cover behind parked cars on the north side of Sabado Tarde Road. As the BMW approached them, Detective Flick could clearly see a gun held by the driver. As the BMW passed by Detective Flick, he feared for his safety and the safety of others knowing that there had been other gunshot victims and hearing about all the gunfire that had been going on around Isla Vista, assuming it was caused by this suspect. With that in mind, Detective Flick fired his weapon approximately 12 times at the driver of the BMW as he continued driving southbound on El Embarcadero and out of Detective Flick's view.

Detective Flick then heard yelling from about 30 yards away that someone had been shot by the suspect. He and Deputies Johnson and Walker ran towards the yelling and found a gunshot victim lying on the ground. At this time Detective Flick heard that the BMW turned onto Del Playa Drive and was traveling westbound towards Camino Pescadero. Detective Flick radioed for an ambulance while asking several bystanders to apply pressure to the victim's wounds. Detective Flick and Deputies Walker and Johnson then ran southbound to Camino Pescadero, eastbound onto Del Playa Drive, and there they saw the crashed BMW.

There were several other deputies, UCPD and CHP officers at the crash site handling the situation, so Detective Flick and Deputy Walker decided to return to the gunshot victim they had just previously encountered. When they arrived, Detective Flick and Deputy Walker rendered first aid to the victim. Once this scene was secure and the victim was transported to the hospital, Detective Flick returned to the Foot Patrol Station where he was interviewed by detectives.

Sergeant Brad Welch

Sergeant Brad Welch is a 15-year veteran of law enforcement. On May 23, 2014, Sergeant Welch was working a regular shift at the Isla Vista Foot Patrol. He wore his regular patrol uniform during this shift. At approximately 2125 hours he was in the Sergeant's office at the Foot Patrol station with SBSO Sergeant Marc Hammill, when he heard a deputy broadcast over the radio something about hearing gunshots. At this point Sergeant Welch had not heard any gunshots. Seconds later, Sergeant Welch heard over the UCPD scanner someone screaming there was a gunshot victim. Sergeants Welch and Hammill then ran out of the front door of the station and heard multiple gunshots coming from what sounded like multiple locations. Sergeants Welch and Hammill started running towards Embarcadero del Norte and came upon a male who had just been shot and was huddled over. Sergeant Hammill stayed with the gunshot victim. Sergeant Welch joined Detective Flick, Deputy Johnson, and Deputy Walker to follow the gunshots.

While walking towards the gunshots, Sergeant Welch heard Deputy Adrian Marquez broadcast over the radio something to the effect of, "I was just shot at on Del Playa," adding he returned fire at the suspect. Sergeant Welch confirmed with Deputy Marquez that he had in fact been shot at and was okay. Sergeant Welch, Detective Flick, and Deputy Walker then walked through the park just west of El Embarcadero and Sabado Tarde Road, across the street from the 7-Eleven store. Radio broadcasts confirmed the suspect was a single male in a damaged black BMW. At this point Sergeant Welch heard more gun fire as well as more victims being identified at different locations. Sergeant Welch estimated there were approximately five or six people down, based upon radio reports.

As Sergeant Welch arrived at Little Acorn Park on Sabado Tarde Road, he heard a long succession of gunshots that sounded as if they were very close. He then looked down the street, westbound towards Camino Pescadero, whereupon he saw a car quickly driving into the rear of the parking lot at the

International Market. Sergeant Welch thought this was the suspect. He then heard more gunshots and squealing tires. As he stood in the roadway, he clearly saw a black car with a BMW emblem and a damaged windshield coming towards him. As the BMW approached Sergeant Welch saw a figure, then a handgun, come out of the window; he felt like he was staring down the muzzle of the suspect's gun.

Knowing that this suspect had severely wounded and/or killed people and assuming his intentions were to kill as many more people as possible, Sergeant Welch drew his handgun and fired at the suspect. Sergeant Welch was approximately 15 feet away from the suspect vehicle when Sergeant Welch fired nine or ten rounds before his gun jammed. Sergeant Welch then dropped his magazine, reloaded, and fired approximately two more rounds before Sergeant Welch stopped shooting. Sergeant Welch stopped shooting as the BMW drove away, because the distance between himself and the BMW became too far to be effective.

While making a plan on what to do if the suspect returned to their location on Sabado Tarde, Sergeant Welch heard on the radio that the suspect crashed on Del Playa Drive. The deputies then started running towards Del Playa, where they took cover behind a CHP vehicle. As they approached the crash site, Sergeant Welch saw that Deputy Gowing was handcuffing the suspect and others were taking over the scene. Sergeant Welch and Deputy DiPinto then left to assist more gunshot victims. After aiding victims, Sergeant Welch returned to the Foot Patrol Station where he was interviewed by detectives.

Deputy Jorden Walker

Deputy Jorden Walker was an officer in the United States Coast Guard for eight years before joining the Santa Barbara Sheriff's Office as a Deputy Sheriff in 2012. On May 23, 2014, Deputy Walker was working in Isla Vista on Alcohol Beverage Control enforcement. He was wearing his full SBSO patrol uniform. At some point in the evening, Deputy Walker was walking back to the Isla Vista Foot Patrol Station with Detective Flick and Deputy Genovese when he heard what he assumed were gunshots. He then waited for about a minute. Upon hearing more sounds of gunshots, they quickly made their way to Freebirds restaurant. People at Freebirds told the deputies they heard gunshots and indicated the sounds came from the north, towards Camino del Sur. As the deputies headed north, Deputy Walker heard radio traffic about shots fired. He also heard that someone had been shot and medics were requested. At about that same time there were sounds of more gunshots coming from the southwest of the deputies' location. Deputy Walker told people on the street to get inside Freebirds restaurant for cover. Then he heard more radio traffic of several people shot and medics requested. All three deputies started travelling on foot towards the 7-Eleven area, and Deputy Walker continued to hear gunshots and saw nine millimeter shell casings in the roadway.

At some point Deputy Walker connected with Sergeant Welch and Deputy Johnson as they travelled towards Del Playa. At this time he heard Deputy Marquez broadcast he had been shot at, whereupon

Sergeant Welch asked Deputy Marquez to confirm. Deputy Walker then heard the suspect described over the radio as an Asian male driving a newer model BMW.

Deputy Walker and the others crossed the street and into the field at Little Acorn Park on Sabado Tarde Road and El Embarcadero. While crossing the street Deputy Walker saw a vehicle parked on the opposite side of a fence in a parking lot and heard more gunshots. Deputy Walker then saw a black BMW with a large hole in the windshield drive from behind that fence, traveling eastbound on Sabado Tarde Road. The BMW did not have its headlights illuminated and was driving slowly. Deputy Walker was standing in the field about 15 yards away from Detective Flick and Sergeant Welch, who were closer to the roadway as the BMW approached. Deputy Walker saw the driver's face and he saw the driver point a gun out the window. Deputy Walker does not recall if the driver shot at them but based on what he knew of the shootings all over Isla Vista and the fact that this driver matched the description of the suspect, Deputy Walker was in fear for his own safety, the safety of his partners, and the safety of the public. With this in mind he fired approximately nine shots at the suspect. Deputy Walker fired as many rounds as he could as the BMW was moving past him heading eastbound. At the time Deputy Walker could see and hear Detective Flick and Sergeant Welch firing at the suspect. Deputy Walker continued firing at the suspect until the vehicle was out of his view. As soon as the deputies began firing at the suspect he drove quickly away.

Once the BMW turned towards Del Playa Drive, Deputy Walker, Sergeant Welch, and Detective Flick gathered on the corner of Sabado Tarde Road and El Embarcadero. At this time there was a radio broadcast that the suspect vehicle crashed on Del Playa. The deputies began running down Del Playa while CHP units responded to the crash location. Deputy Walker used one of the CHP units as cover as he made his way towards the crash scene. Once at the scene he saw what appeared to be an Asian male in a white shirt, handcuffed, lying on the ground. Shortly thereafter, Deputy Walker and Detective Flick left the scene to attend to a victim on Sabado Tarde Road. When they arrived at this victim, the deputies applied pressure to his wounds and waited until medical personnel arrived.

Witness Officer and Deputy Statements

Deputy Wayne Johnson

On Friday, May 23, 2014, at around 2130 hours, Deputy Wayne Johnson was walking back to the Isla Vista Foot Patrol Station with Sheriff Deputies DiPinto, Gowing, Walker, and Flick. As the group was walking, Deputy Johnson heard approximately eight to ten gunshots. Deputy Johnson and the others recognized the sounds as gunshots and began walking back towards the north, the direction in which they heard the shots. While walking they heard five more gunshots coming from the area of Embarcadero del Norte and Pardall Road. The group then split up. Deputies Walker and Johnson and Detective Flick headed westbound on Cordoba Road towards Embarcadero del Norte, where they last

heard gunshots. Deputy Johnson and the others were around the 6500 block of Cordoba when they heard an additional five to eight shots coming from the area of the top of the business loop.

They then ran towards the area. As they were running they heard information broadcast on radio about multiple gunshot victims in Isla Vista. Deputy Johnson also heard Deputy Marquez radio broadcast that he had been shot at on Del Playa. Deputy Johnson next heard a broadcast describing the suspect vehicle as a black BMW and the suspect as an Asian male driver wearing dark clothing.

Deputy Johnson and his group, consisting of Sergeant Welch, Detective Flick, and Deputy Walker, moved into Little Acorn Park across from a 7-Eleven store between El Embarcadero and Sabado Tarde Road. While in the park, they heard more gunshots coming from the area of Sabado Tarde Road and Camino Pescadero. Shortly thereafter, Deputy Johnson saw a black BMW driving eastbound on Sabado Tarde Road towards their location. He knew, based upon the suspect description, that this was the suspect.

Deputy Johnson heard and saw other deputies fire approximately 15 rounds at the BMW as it approached and passed their location. He was not sure exactly who in the group fired. He did not fire because he did not have a clear shot. Deputy Johnson stated that he would have fired if he had a clear shot, and explained, "...not only did I feel like my life was threatened, I felt like every person's in Isla Vista was threatened, this guy was just driving around like a crazy person shooting at whoever he could shoot at, I felt it was my duty to take that shot if I had the shot."

The BMW continued eastbound on Sabado Tarde Road until turning right on El Embarcadero. Deputy Johnson heard radio traffic that the vehicle turned right onto Del Playa. Deputy Johnson began running towards that location. While running he heard radio traffic that the BMW was involved in a collision. When they arrived at the crash, Deputy Johnson saw the BMW smoking, the driver's side door open, and the suspect lying next to the door. Deputy Johnson then noticed there was a large amount of blood coming from the suspect. He also saw a bag which he later determined contained approximately 15-20 ammunition magazines. While another deputy assessed the suspect, Deputy Johnson observed what appeared to be an entry wound on one side of his head and an exit wound on the other side. Brain matter also protruded from one of the wounds.

Deputy Johnson observed a second subject lying to the rear of the BMW. Initially, Deputy Johnson and the other law enforcement officers on scene did not know if this second person was a suspect or a victim. Deputy Johnson placed the second subject in handcuffs until Deputy Gowing determined he was not a suspect but a victim who had been hit by the suspect's vehicle. Deputy Johnson then removed the handcuffs and deputies continued to render aid to this victim until medics arrived.

UCPD Corporal Jeff Lupo

On Friday, May 23, 2014, at approximately 2127 hours UCPD Corporal Lupo and Officer Oldread were at the Isla Vista Foot Patrol Station. They heard radio traffic indicating that gun shots had been fired near the Pardall Road area and there were multiple gunshot victims. As Corporal Lupo left the station, he heard approximately five loud bangs in repetition that, based on his training and experience, he believed were gun shots. Corporal Lupo and Officer Oldread started on foot westbound on Trigo Avenue towards the shots. At that time he heard five more gun shots that sounded closer than the first series of shots. He believed the shots were coming from the intersection of Embarcadero del Norte and Trigo Road.

Corporal Lupo and Officer Oldread then transitioned from foot to a vehicle and drove westbound on Trigo Road. Corporal Lupo then heard radio traffic that deputies reported the suspect was a male, shooting from a black BMW. Corporal Lupo parked the vehicle near the top of the loop outside of a 7-Eleven store. Once on the street, Corporal Lupo saw multiple shell casings on the ground and heard multiple gun shots from a location to the west. He also heard people say there was a gunshot victim inside the 7-Eleven, and additional gunfire which sounded as if it were close by. Corporal Lupo told the people inside of 7-Eleven to stay sheltered inside the store.

Corporal Lupo then saw a group of deputies on the 6500 block of Sabado Tarde Road, south of Little Acorn Park. He and Officer Oldread ran southbound on El Embarcadero to catch up to the deputies. Corporal Lupo heard someone yell that the suspect was driving towards them. He saw a black vehicle traveling eastbound on Sabado Tarde Road approaching the deputies and a series of muzzle flashes. He heard approximately 15 gun shots in rapid succession. Corporal Lupo was not in a position to fire his weapon due to his location. The only deputy who Corporal Lupo was positive he saw fire, was Sergeant Welch, who he believed fired approximately three shots at the vehicle. The vehicle then sped past the deputies. This vehicle then turned right onto southbound El Embarcadero and then right onto westbound Del Playa. Corporal Lupo, Sergeants Hammill and Welch, Deputy Walker, and Officer Oldread, followed the vehicle's path on foot. Corporal Lupo next heard over the radio a deputy dispatch that the suspect vehicle crashed on the 6500 block of Del Playa and the suspect was in custody.

UCPD Officer Oldread

On Friday, May 23, 2014, at approximately 2127 hours, Officer Oldread was working at the Isla Vista Foot Patrol Station when he and his training officer, Corporal Lupo, were dispatched to Pardall Road and Embarcadero del Norte concerning possible gunshots in the area.

While leaving the station, Officer Oldread heard several gunshots coming from the area of Sabado Tarde Road and Del Playa Drive. The shots sounded as though they were coming in their direction, so Officer Oldread and Corporal Lupo took cover. Shortly thereafter, they got into a marked patrol vehicle and drove towards the top of the business district loop. When they parked near the restaurant, Pizza My

Heart, Officer Oldread saw multiple shell casings on the ground in the roadway. They continued on foot toward Sabado Tarde Road with a group of Sheriff Deputies. As they approached Little Acorn Park, they heard someone say there was a gunshot victim in the 7-Eleven store. Officer Oldread and Corporal Lupo instructed several people to get inside the 7-Eleven and lock the door.

Officer Oldread then heard a deputy yell out that the suspect's vehicle was returning. At this point Officer Oldread saw a newer model black BMW driving eastbound on Sabado Tarde Road. He believed this to be the suspect's vehicle, based on previous descriptions broadcast over the radio. Officer Oldread described the suspect's driving behavior as "very fast acceleration" and "rapid deceleration" as it approached the intersection. He also saw the suspect's handgun from the driver's side of the BMW and observed the suspect shoot at the deputies at least one time. Officer Oldread aimed his handgun at the BMW but decided against shooting because of the distance between himself and the BMW, considering the possibility of danger to the pedestrians in the background. Officer Oldread then saw Sergeant Welch fire his weapon at the suspect's vehicle. The BMW soon turned right on El Embarcadero and continued westbound on Del Playa Drive.

Officer Oldread and Corporal Lupo then regrouped with Sergeants Hammill and Welch, and several other deputies, as they walked towards Del Playa Drive. At this time they heard the suspect's vehicle collided with a parked car. Two California Highway Patrol Units arrived for assistance, resulting in Officer Oldread and Corporal Lupo taking cover behind one of the CHP units. Shortly thereafter, as Officer Oldread and the others approached the BMW, he could see two subjects on the ground outside the vehicle.

Santa Barbara Sheriff Deputy Brad Smith

On Friday, May 23, 2104, at approximately 2127 hours, Deputy Smith was in the Isla Vista Foot Patrol Station when he heard radio reports of fireworks or gunshots broadcast. Shortly thereafter, Deputy Smith heard more reports broadcast of gunshots, and a report that there were two gunshot victims located near Greek Park.

Deputy Smith left the station in a marked patrol vehicle to respond to the scene at Greek Park. As he was getting into the vehicle he heard a volley of gunshots coming from the direction of Trigo Road and Embarcadero del Norte. Deputy Smith thought it sounded as though several of the fired rounds went past the Foot Patrol station towards the UCSB campus. Deputy Smith drove to the intersection of Trigo Road and Embarcadero del Norte. There he saw what appeared to be a purse or large bag in the roadway and several shell casings not far from the bag.

As he began to set up a perimeter to secure the shooting scene he heard shots being fired in the 6500 block of Sabado Tarde west of El Embarcadero. Deputy Smith then saw several deputies run into Little Acorn Park heading towards the direction of the gunshots. When the sound of gunshots began

approaching El Embarcadero, he walked southbound on El Embarcadero towards Sabado Tarde. Within seconds he saw a black BMW traveling eastbound on Sabado Tarde towards El Embarcadero. The vehicle matched the description of the shooting suspect's vehicle.

As the BMW began to pass Little Acorn Park, Deputy Smith heard a couple of gunshots followed by a volley of shots from the deputies in the park. He was unable to see who was firing, but he could see muzzle flashes coming from the deputies' weapons. As the BMW continued towards El Embarcadero, Deputy Smith took a position to engage the suspect with his handgun should the suspect make a left turn towards him and the populated business district loop. The suspect then made a right turn at El Embarcadero towards Del Playa Drive, while still under fire from the deputies in the park. Deputy Smith did not engage the suspect with his handgun due to his distance and the presence of pedestrians in his crossfire.

Deputy Smith then ran towards the nearest patrol car and drove after the BMW. As soon as he drove away he heard a radio broadcast that the suspect's vehicle crashed near the intersection of Del Playa Drive and Camino Pescadero. Deputy Smith quickly responded to that location where he found the BMW on the sidewalk in front of 6594 Del Playa Drive. The vehicle was heavily damaged from a collision with a parked car. The driver's side door of the BMW was open and Deputy Smith could see the suspect sitting in the driver's seat motionless. Deputy Smith provided cover while others removed the suspect from the vehicle and handcuffed him. He saw there was a handgun in the suspect's lap that appeared to be a Sig Sauer semi-automatic with the hammer in the cocked position. When the suspect was removed from the vehicle, Deputy Smith could see that he was gravely wounded with what appeared to be a through and through gunshot wound to his head.

Civilian Witness Statements

Colby Taylor

On Friday, May 23, 2014, Colby Taylor was inside his apartment on Sabado Tarde Road when he heard gunshots. He went outside and stood on the sidewalk with Tommy Tsutsumi. While outside, he saw a group of deputies walking from the Isla Vista Foot Patrol Station through Little Acorn Park. Taylor heard what he believed to be a vehicle speeding eastbound on Sabado Tarde Road. Next he saw a vehicle drive eastbound and a subject from the passenger seat of that vehicle reach over from what he perceived as the passenger side frame and shoot a gun, northward, towards the park.

Taylor said the incident happened "so quickly" and when the suspect drove by and opened fire he immediately jumped back. Taylor did not see a driver or a passenger, but he remembered seeing an arm reach out of the front passenger window, point a gun north, and fire the gun. Once he saw the gun, Taylor jumped behind a parked car. At that point, he saw the deputies pursuing the car, going into the street, and opening fire at the car. Taylor could see the deputies were in uniform and could clearly see

they were law enforcement officers. Taylor stated, “There’s no question in my mind that they [the suspect] knew they were opening fire at a law enforcement agency.”

Tommy Tsutsumi

On Friday May 23, 2014, Tommy Tsutsumi was visiting a friend at 6561 Sabado Tarde Road. While inside his friend’s apartment, Tsutsumi heard two volleys of gunfire separated by approximately one minute. Tsutsumi and others ran outside of the apartment and onto the sidewalk. He heard a vehicle driving eastbound on Sabado Trade Road at a high rate of speed. Once this vehicle was in front of him, Tsutsumi saw one of the driver’s arms extended out of the window; he was holding a gun in that hand.

The driver fired approximately five rounds while holding his arm outside the window. While the driver was shooting, Tsutsumi saw what he perceived to be four police officers running diagonally across Little Acorn Park. He knew they were police officers because they had their guns drawn and they were using flashlights. Tsutsumi believed the driver was trying to shoot the police officers. Tsutsumi saw the police officers shooting at the suspect’s vehicle after it passed his position.

Dana Tuttle

On Friday May 23, 2014 Dana Tuttle was sitting on the couch in his living room with his roommate, Kevin Cappon, when he heard several gun shots outside the apartment. Their apartment is located on Del Playa Drive and the second floor living room faces directly out towards Del Playa. Tuttle looked out of a window and observed a black BMW traveling southbound on El Embarcadero. As he watched the BMW he saw it pull up next to a woman he knows as Sierra Swartz. The BMW drove next to Swartz then Tuttle heard a single gunshot coming from the area of the BMW. He then saw Swartz running southbound on El Embarcadero, turn left, and then head eastbound on Del Playa. Once on Del Playa, Swartz entered a fenced yard, and Tuttle observed the BMW follow her path and stop in front of the opening to the yard. Tuttle then heard approximately three more gunshots. After that, he saw the driver of the BMW place a new magazine into his firearm and drive eastbound on Del Playa.

Tuttle next saw a deputy² walking eastbound on Del Playa towards the direction of the BMW. The BMW then appeared, now traveling westbound back towards the deputy. As the BMW drove closer to the deputy’s position, Tuttle heard at least three gun shots. He was not sure if the deputy fired his weapon, but he was sure the driver of the BMW fired at the deputy. Tuttle never heard the suspect say anything nor could he provide a description of him. He only saw a silhouette as the suspect drove by.

² From the circumstances it is apparent this is Deputy Adrian Marquez.

Kevin Cappon

On Friday May 23, 2014, Kevin Cappon was sitting on the couch in his living room with his roommate, Dana Tuttle, when he heard several gun shots outside the apartment. Cappon observed the same situation as described by witness Dana Tuttle above. Cappon described when he saw the driver of the BMW approach the deputy's location. Cappon said the BMW slowed down and then he heard shots. As the BMW continued westbound on Del Playa, Cappon saw the BMW driver "track" the deputy's position as he drove away and continued to fire. Cappon demonstrated this "tracking movement" by pointing his hand in the direction where he had seen the deputy and then moving in a westbound direction while holding his hand still facing the original location where the deputy had been. Cappon said the suspect was "definitely looking at the policeman, at the deputy, when he was firing." Cappon was not able to provide a description of the suspect as he only saw the back of his head as he was "tracking" the deputy and firing.

Ryan Carter

In the evening on Friday, May 23, 2014, Ryan Carter was a passenger in a white pick-up truck driven by his friend, David Smithers. They were coming from the Santa Ynez Apartments on El Colegio Road and headed to Carter's residence on Seville Road. As they traveled southbound on Embarcadero del Norte, north of Segovia, they came upon an SUV police vehicle that was blocking the roadway. Carter saw a female on the sidewalk next to the Alpha Phi Sorority and people were performing CPR on her. Carter thought she appeared to be deceased. At this point Carter had not yet heard any gun shots.

Carter and Smithers turned right onto Segovia Road and traveled westbound to Embarcadero del Mar where they turned left and drove southbound. As they approached the intersection at the top of the business loop near 7-Eleven, Carter heard six to seven gunshots. He then saw six to eight people start to run. As Carter and Smithers attempted to drive northbound on Embarcadero del Norte, their path was blocked by another patrol unit that was blocking both lanes of the road. A moment later Carter saw six to seven deputies shooting what he estimated to be 50 to 60 rounds. He estimated that they were approximately five feet from his vehicle as they were shooting. He said the deputies were firing as they moved across El Embarcadero towards Little Acorn Park.

Carter said bullets were being shot back at the deputies and at this point he ducked under the front seat of the pick-up truck. He heard radio traffic from the deputies' radios about the suspect vehicle being a brand new black BMW 3 series. Carter never saw the BMW because he was trying to protect himself by hiding under the seat. But he heard the deputies talking about the vehicle and he said they sounded confident that they were shooting at the suspect's vehicle.

Autopsy and Coroner's Report

On May 29, 2014, forensic pathologist Dr. Robert Anthony performed an autopsy on suspect Elliot Rodger. Dr. Anthony discovered a through and through gunshot wound to the right temple and a second grazing gunshot wound to the left hip of the decedent³. Dr. Anthony concluded the gunshot wound to the head occurred at close range. Based on the physical evidence and witness statements provided from the criminal investigation that the decedent was the sole occupant of the vehicle, Dr. Anthony further concluded that the decedent died as a result of a self-inflicted gunshot wound to the head. The Coroner's report certified the manner of death as a suicide.

Forensic Documentation of Shooting Scene⁴

The shooting involving Sergeant Welch and Detective Flick and Deputy Walker took place near the intersection of El Embarcadero and Sabado Tarde Road and included the southern section of Little Acorn Park, which runs parallel to Sabado Tarde Road. A total of 28 .40 caliber cartridge casings were found in the southern section of the park and on the roadway. Several bullet fragments were also collected from this location. A 9mm cartridge casing was collected from 6571 Sabado Tarde Road.

Forensic Documentation of Suspect Vehicle

The suspect's vehicle is a black two-door BMW 328i. A DOJ Criminalist documented 10 bullet strikes on the BMW and their corresponding trajectories. Five bullets struck the rear of the vehicle, including the rear bumper and trunk area. One bullet struck the passenger side near the rear window and gas cap door and did not appear to penetrate through to the interior of the car. One bullet hit the metal near the top right corner of the windshield, leaving a jagged hole. Three bullets hit the driver's door, two of which did not penetrate the door, and a third hit the door below the door handle at a slightly downward angle. There is a corresponding hole in the interior on the door panel which lined up with a bullet hole that appeared in the driver's seat back, near the seat cushion. This is likely the bullet that grazed the suspect's left hip.

³ Forensic investigation revealed that one round shot by deputies at the Little Acorn Park crime scene entered the suspect's vehicle. Investigators concluded that this round likely grazed the suspect in the left hip.

⁴ There was no forensics recovery of the OIS scene at 6500 Del Playa Drive where Deputy Marquez and the suspect fired their weapons.

LEGAL ANALYSIS

Under California law anyone, including a police officer, who is threatened with an attack that justifies the use of self-defense, need not retreat. The person may stand his ground and defend himself, if necessary, by deadly force, even if he might have more easily gained safety by flight. (See, *People v. Newcomer* (1897) 118 Cal.2d3, 273; *People v. Dawson* (1948) 88 Cal.App.2d 85, 95.)

A police officer may use deadly force where circumstances create a reasonable fear of death or serious bodily injury in the mind of the officer. (*Graham v. Conner* (1989) 490 U.S. 386; *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334.)

In *Graham v. Conner* (1989) 490 U.S. 386, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident “including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” (*Id.*, at 396.) Further, the Court stated, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight.” (*Id.*, at 397.) Moreover, [t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain and rapidly evolving—about the amount of force that is necessary in a particular situation.” (*Id.*, at 397-398.)

The “reasonableness” standard discussed in *Graham* has been described as “comparatively generous to police in cases where potential danger, emergency conditions, or other exigent circumstances are present,” (*Roy v. Inhabitants of the City of Lewiston* (1st Cir. 1994) 42 F.3d 691) and also as giving police “...a fairly wide zone of protection in close cases....” (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334.)

Further, in *Tennessee v. Garner* (1985) 471 U.S. 1 the U.S. Supreme Court stated when the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is constitutionally reasonable for the officer to prevent escape by using deadly force.

CONCLUSION

On May 23, 2014, at 2127 hours, law enforcement officers in the Isla Vista area responded to chaotic reports of a vehicle driving through the streets of Isla Vista, shooting, seemingly at random, and hitting pedestrians and other vehicles. As of 2129 hours, there were already at least three gunshot victims as officers deployed through the streets of Isla Vista to locate and stop the murderous rampage. Within minutes of the first reports of gunshots, Sheriff Deputies engaged in a gun battle with the suspect. Seven

minutes after the first reports of gunshots, the suspect crashed his vehicle and ended his life with a gunshot wound to the head.

The evidence examined shows that there were two separate officer-involved shootings where deputies engaged in gunfire with the suspect. The first officer-involved shooting was with Deputy Adrian Marquez at 6550 Del Playa at approximately 2132 hours. Deputy Marquez was located near the corner of Del Playa and El Embarcadero when he saw the suspect vehicle turn onto Del Playa from El Embarcadero. While driving eastbound on Del Playa, the suspect made a U-turn, traveled westbound on Del Playa, and began shooting in the direction of Deputy Marquez. Deputy Marquez, fearing for his life and the lives of others, fired a single shot, striking the right side of the suspect's vehicle.

The second officer-involved shooting occurred at approximately 2133 hours when Sergeant Welch, Detective Flick, Deputy Walker, and Deputy Johnson were located at Little Acorn Park on Sabado Tarde Road and El Embarcadero. The suspect vehicle drove east on Sabado Tarde Road towards Little Acorn Park. All of the deputies reported seeing the suspect pointing a handgun out of the window of his vehicle. Fearing for their lives and the lives of their fellow deputies, and in an attempt to apprehend the suspect who had just killed at least three people and wounded dozens of others, Sergeant Welch, Detective Flick, and Deputy Walker fired at the vehicle. Rounds hit the vehicle several times on the left side and rear, with only one confirmed round entering the vehicle.

A total of 31 rounds were fired by deputies in these two separate officer-involved shootings. Deputy Marquez fired one round from his location at 6500 Del Playa Drive. That round impacted the right rear panel of the suspect vehicle. Sergeant Welch fired 11 rounds, Detective Flick fired 10 rounds, and Deputy Walker fired nine rounds. Those rounds impacted the suspect's vehicle, one grazing the left hip of the suspect. They also impacted parked and unoccupied vehicles, fences, and buildings in the immediate area. There were no victims injured by these two law enforcement officer-involved shootings.

Approximately one minute after the shooting in Little Acorn Park, the suspect vehicle crashed and the suspect shot himself in the head.

We find that Sergeant Welch, Detective Flick, Deputy Marquez, and Deputy Walker acted lawfully in self-defense and in defense of others when they used deadly force against Elliot Rodger that night. Based upon the suspect's actions, it is apparent had they not fired at the suspect, many more lives would have been lost. We are closing our file and will take no further action in this matter.